

**CITY OF SUNNYVALE
ADMINISTRATIVE HEARING**

**MINUTES
Wednesday, May 4, 2005**

2005-0233 – Application for a Use Permit to allow a six-foot and eight-inch high side yard fence without a signed neighbor agreement. The property is located at **838 San Rafael Street** (near Ahwanee Ave) in an R-0 (Low-Density Residential) Zoning District. (APN: 205-07-007) KD (continued from April 27, 2005)

In attendance: Joe & Evangeline Ruivivar, Applicants; Gerri Caruso, Administrative Hearing Officer; Kelly Diekmann, Project Planner; Deborah Gorman, Administrative Aide; Luis Uribe, Support Staff.

Ms. Gerri Caruso, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Caruso announced the subject application.

Kelly Diekmann, Project Planner, mentioned that the adjoining neighbor submitted pictures as well as a letter stating that they do not have an issue with the height of the fence, but with the design and compatibility. Staff noted that the fence does not meet design guidelines and may be rejected by the building department in terms of getting a permit. A whole new fence may need to be constructed.

Ms. Caruso opened the public hearing.

Evangeline Ruivivar, Applicant, stated that the reason for the extension of the fence was to keep leaves and other debris from blowing into their yard from their neighbor's property. The applicant also stated that they received a letter from Richard Guterrez (Sr. NP Specialist, Neighborhood Preservation) in regards to the height requirement of their fence. She also mentioned that they had asked the neighbor to sign the fence agreement, only to have it returned to them with the page crossed out. The applicant also mentioned that they contacted Project Sentinel and they also had no luck with the neighbor.

Joe Ruivivar, Applicant, submitted pictures of the fence.

Ms. Caruso verified that the construction of the fence was not visible from the street. She mentioned that the applicant is going to have to obtain a Building Permit.

Ms. Caruso closed the public hearing.

Ms. Caruso asked the applicant if he had a chance to read the report.

Ms. Caruso approved the Use Permit with the Conditions of Approval recommended by the staff also with the following modifications:

1. The owner must obtain a permit for any part of the existing fence that measures more than 6 feet in height.
2. The owner can redesign the entire fence which at that point they will be allowed to build the fence up to 7 feet in height with approved design plans from the Planning Department, without a signed neighbor agreement, and with Building Permits.

Ms. Caruso stated that the decision is final unless appealed to the Planning Commission with payment of the appeal fee within the 15-day appeal period.

The meeting was adjourned at 2:24p.m.

Minutes approved by:
Gerri Caruso, Principal Planner